

**10-148**  
**STATE OF MAINE**  
**DEPARTMENT OF HUMAN SERVICES**

**Chapter 14**  
**RULES FOR LEVELS OF CARE FOR FOSTER HOMES**

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**Propose:** These rules describe the procedures, requirements, and rates for the Bureau of Child and Family Services Levels of Care system.

**1. Definitions**

As used in these rules the following definitions shall apply:

- A. **"Family Foster Home for Children"** means a children's home that is a private dwelling, where substitute parental care is provided within a family on a regular, 24-hour a day, residential basis to children under 18 years of age and unrelated to the foster family by blood, marriage or adoption. As further defined in Chapter 16 "Rules Providing for the Licensing of Family Foster Homes for Children," pg 1.
- B. For foster parents with a family foster home, **"foster parent"** shall mean a person maintaining a family foster home for children.
- C. **"Specialized children's foster home"** shall mean a children's licensed home that is a private dwelling where substitute parental care is provided within a family on a regular, 24 hour a day residential basis to children under 18 years of age and unrelated to the foster family by blood, marriage or adoption. Specialized care is further defined in Chapter 15 "Rules Providing for the Licensing of Specialized Children's Foster Homes," pg 21.
- D. For foster parents with a specialized children's foster home, **"foster parent"** shall mean a person maintaining a home for moderately to severely handicapped children.
- E. **"Child Placing Agency"** shall mean a facility which advertises itself or holds itself out as finding homes for or otherwise placing children under the age of 18, in homes where care is provided on the basis of 24 hours a day. A Child Placing Agency provides contracted services to children and the foster families affiliated with them.
- F. **"Department"** shall mean the Department of Human Services (DHS).
- G. **"BCFS"** shall mean the Bureau of Child and Family Services within the Department of Human Services.
- H. **"Foster child"** shall mean a child under 18 years of age, unrelated to the foster family by blood, marriage or by adoption, who requires out of home care on a regular 24-hour a day, residential basis.
- I. Children who are under the **V9** or **extended care program** are age 18 or older, no longer in state custody and are receiving ongoing services through a voluntary agreement with BCFS. There services are designed to assist the child in completing an educational program either high school or post-secondary education.

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- J. **“Child Assessment”** is the process used to assess a child’s needs for a type of placement and services through the use of assessment tools, including but not limited to, the Child and Adolescent Functional Assessment Scale (CAFAS), the Preschool and Early Childhood Functional Assessment Scale (PECFAS), the Vineland Behavior Scales, and the Temperamental and Atypical Behavior Scale (TABS) Assessment Tool. Assessment tools include, but are not limited to, clinically developed assessments that have been tested to determine that they measure as expected when they are used by different assessors with children with varying demographic characteristics.
- K. **“Level of Care (LOC)”** is the level of need and reimbursement rate for the child determined through the child assessment.
- L. **“Authorized LOC”** is the Level of Care (LOC) authorization based on the child assessment which evaluates the child’s needs. The child’s level of care authorization results in one of five reimbursement rates.
- M. **“Special Review”** is a non-scheduled review that is requested due to the belief that a child’s needs have changed. Such reviews may be requested by the:
- DHS Caseworker
  - foster parent
  - child placing agency staff
- N. **“LOC Reviewers”** are the child welfare staff within BCFS charged with the responsibility to review and authorize LOC for all children in family foster homes and specialized children’s foster homes.
- O. **“LOC Review Committee”** is a three person review committee, including a foster parent representative, child placing agency representative and a BCFS representative, that provides a review of the child assessment.
- P. **“Levels of Care - Child Functioning Levels”** is the guide to the five levels of care which specifies child behavior and needs by level and sets a reimbursement rate for each level.
- Q. **“Reimbursement rate”** is the daily foster care maintenance payment paid to foster parents to cover the cost of food, shelter, daily supervision, school supplies, a child’s personal incidentals, and reasonable travel for a child’s visitation with family.
- R. **“Grandfathered Placement”** is a placement of a child in a family foster home or a specialized children’s foster home that is in effect when the LOC process begins on the effective date of these rules. Reimbursement for these placements will not change for a 15 month period.
2. **Levels of Care (LOC).** The following levels of care designations are used to determine

the reimbursement rate to be paid to the foster parent.

**A. LOC 01 - Basic Care - Minimal Needs.** This level is for children who have minimal needs and will be placed in a family foster home for children (family foster home). “Children with minimal needs” may have occasional episodes of behavioral and/or emotional problems which do not significantly impair the child’s interpersonal relationships and ability to function at home or at school. “Children with minimal needs” are expected to function largely at an age appropriate level educationally, socially, physically, medically, developmentally and emotionally.

**B. LOC 02 - Basic Care - Mild Needs.** This level is for children who have mild needs that require a higher than LOC 01-Basic Care level of services in a family foster home. “Children with mild needs” may display the following: minor developmental delays, episodic problems relating with others, infrequent concerns/problems regarding performance in school, limited or short-term mental health treatment needs and stable/routine medical needs.

**C. LOC 03 -Treatment Care - Moderate Needs.** This level is for children who have moderate needs that require a higher than LOC 02 – Basic Care level of services in a specialized children’s foster home (specialized foster home). If a child in a grandfathered placement with an established family foster home is assessed at this level, that foster family may be considered for an exemption from the requirement to get a specialized license as long as it is in the best interest of the child and the child’s needs are able to be met in the home. “Children with moderate needs” may display the following: moderate developmental delays, ongoing problems with interpersonal relationships including a history of self-abusive behaviors, and minor episodes of aggression toward others. They may also have ongoing needs for mental health treatment, monitoring of school problems and/or special education needs and/or medical supports.

**D. LOC 04 - Treatment Care - High Needs.** This level is for children who have high needs that require a higher than LOC 03 – Treatment Care level of services in a specialized foster home. If a child in a grandfathered placement with an established family foster home is assessed at this level, that foster family may be considered for an exemption from the requirement to get a specialized license as long as it is in the best interest of the child and the child’s needs are able to be met in the home. “Children with high needs” may display the following: significant developmental delays, impulsivity requiring external control, ongoing conflict with others, unresponsiveness to social prompts, need for special education services to address performance and/or behavior issues, slow or no progress in mental health treatment, and may require in-home supports for medical conditions. They may have a history of self abusive behaviors, including assault on others.

**E. LOC 05 -Treatment Care - Severe Needs.** This level is for children who have severe needs that require a higher than LOC 04 – Treatment Care level of services in a specialized foster home. If a child in a grandfathered placement with an established family foster home is assessed at this level, that foster family may be considered for an exemption from the requirement to get a specialized license as long as it is in the best interest of the child and the child’s needs are able to be met in the home. “Children with severe needs” may display the following: severe developmental delays, a risk to self or others including deliberate aggression toward others, inability to maintain control in spite of close supervision, chronic/serious medical condition, and poor/no response to mental health treatment.

### **3. Grandfathered Placements**

Any child in a foster home placement on the effective date of these rules will be considered a “grandfathered placement” and will continue to receive the same reimbursement rate for a 15 month period. During this 15 month “grandfathered placement,” each child will have an initial child assessment to determine the level of care that will be assigned after the 15 month period has ended. The new level of care established by the initial child assessment will be in effect at the end of this 15 month period.

Exceptions to the grandfathering rule are:

- Children in an extended care placement.
- Children in foster homes that change affiliations with child placing agencies.
- Children who move from one foster home to another.

### **4. Levels of Care (LOC) Process.**

**A.** When a child comes into state custody, a preliminary determination is made by the Department of this child’s needs. Based upon this preliminary determination, the child will be placed in either a family foster home or a specialized foster home. If the child is placed in a family foster home, the entry reimbursement rate will be LOC 01 - Basic Care. If a child is placed in a specialized foster home, the entry reimbursement rate will be LOC 03 - Treatment Care. Within 90 days of placement in a family foster home or a specialized foster home, an initial child assessment will be done by LOC Reviewers to determine the child’s need for services and to match a reimbursement rate to those needs.

**B.** The child assessment may involve the use of information from the following services:

- Interviews with foster parents and others.
- Evaluations and reports of child functioning from child placing agencies, mental health providers, schools and/or facilities.
- Interviews with Department of Human Services Caseworkers.
- Review of case information from Departmental records.
- Any other information that is deemed pertinent to the child assessment process.

C. The result of the child assessment will indicate the child's level of care, level of needs, and the reimbursement rate.

D. Children will be reassessed annually to determine if their needs continue to be met by the plan that is in place as a result of the authorized LOC.

E. A determination may be made at the time of the initial child assessment that an annual reassessment is not needed. Exceptions to the annual reassessment might be:

- Children with chronic medical conditions that will continue to require the same authorized LOC.
- Children with cognitive limitations that will continue to require services at the same authorized LOC.
- Children with an authorized LOC of Level 01.

F. A special review may be requested in the event that the child experiences an increase in need.

## 5. Reimbursement Rates

**LOC 01 – Basic Care – Minimal Needs.** The daily reimbursement rate is \$16.50.

**LOC 02 - Basic Care –Mild Needs.** The daily reimbursement rate is \$30.00.

**LOC 03 - Treatment Care – Moderate Needs.** The daily reimbursement rate is \$45.00.

**LOC 04 - Treatment Care – High Needs.** The daily reimbursement rate is \$60.00.

**LOC 05 - Treatment Care – Severe Needs.** The daily reimbursement rate is \$75.00.

## 6. Review Process

- A. The foster parent and child placing agency will be notified in writing of the result of the child assessment.
- B. If the foster parent disagrees with the child assessment result, the foster parent must submit a request for a review, in writing, within 30 days of the date of the

notice. The foster parent must include documentation with the request for a review which supports the foster parent's dispute of the level of care established by the child assessment.

- C.** The foster parent's written documentation will be submitted to an LOC Review Committee for review of the initial assessment or the annual assessment.
- D.** The foster parent will be notified of the result of the LOC Review Committee review in writing.
- E.** The result of the LOC Review Committee review is the end of the internal review process.

## **7. Appeal Process**

A foster parent aggrieved by the LOC Review Committee's child assessment review, may request an administrative hearing, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

A written request for an administrative hearing must be received by the Department within 10 working days of receipt of notice of the result of the LOC Review Committee review. Any request for a hearing must state in detail the aggrieved foster parent's reasons for believing the Department's action to be incorrect. If the Department does not receive a hearing request within the time allowed, the Department's decision will become final at the end of that period.

## **8. Statutory Authority**

Title 5 M.R.S.A. § 8052

Title 22 M.R.S.A. § 4062